

TO: Mail Stop 8 Director of the U.S. Patent and Trademark Office P.O. Box 1450 Alexandria, VA 22313-1450	REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK
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In Compliance with 35 U.S.C. § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been
 filed in the U.S. District Court District Court of Minnesota on the following

☐ Trademarks or ☒ Patents. (☐ the patent action involves 35 U.S.C. § 292.):

DOCKET NO. 11cv00468	DATE FILED 2/23/2011	U.S. DISTRICT COURT District Court of Minnesota
PLAINTIFF Douglas Machine Inc.,		DEFENDANT Xpak US LLC,
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1 7,533,768		
2		
3		
4		
5		

In the above—entitled case, the following patent(s)/ trademark(s) have been included:

DATE INCLUDED	INCLUDED BY <input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading	
PATENT OR TRADEMARK NO.	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK
1		
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3		
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In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT

CLERK	(BY) DEPUTY CLERK	DATE
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Copy 1—Upon initiation of action, mail this copy to Director Copy 3—Upon termination of action, mail this copy to Director
 Copy 2—Upon filing document adding patent(s), mail this copy to Director Copy 4—Case file copy

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Douglas Machine Inc.,

Court File No. _____

Plaintiff,

**COMPLAINT FOR PATENT
INFRINGEMENT**

v.

Xpak USA LLC,

JURY TRIAL DEMANDED

Defendant.

For its Complaint against defendant Xpak USA LLC ("Defendant"), plaintiff Douglas Machine Inc. ("Douglas Machine") states and alleges the following:

PARTIES

1. Plaintiff Douglas Machine Inc., is a Minnesota corporation with its principal place of business at 3404 Iowa Street, Alexandria, Minnesota 56308.

2. Upon information and belief, Defendant Xpak USA LLC is a New Jersey limited liability company with its principal place of business at 1530 Jersey Ave. North Brunswick, NJ 08902.

3. Defendant imports some or all of its machinery from X-PAK Argentina S.A., J.B. Justo 1220, Lanus Este (1824) Buenos Aires C, Argentina.

4. Plaintiff Douglas Machine and Defendant are direct competitors.

JURISDICTION AND VENUE

5. Subject matter jurisdiction is proper under 28 U.S.C. § 1338.

6. Personal jurisdiction is based upon Federal Rule of Civil Procedure 4(e) and the Minnesota Long-Arm Statute, Minn. Stat. § 543.19.

7. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391 and 1400.

COUNT I
PATENT INFRINGEMENT

8. On May 19, 2009, United States Letters Patent No. 7,533,768 was properly and legally issued and Assigned to Plaintiff Douglas Machine, Inc., for an invention in a Retractable transfer device metering apparatus and methods (“the ‘768 Patent”).

9. A true and correct copy of the ‘768 patent is attached as Exhibit 1.

10. Plaintiff Douglas Machine owned the ‘768 Patent throughout the period of the Defendant’s infringement and still owns the ‘768 Patent.

11. Plaintiff Douglas Machine has placed the required statutory notice on all embodiments of the ‘768 Patent manufactured and sold by it.

12. Defendant have been infringing and continue to infringe the ‘768 Patent, directly and indirectly, by making, offering for sale, selling, and/or using packaging systems and methods that embody one or more claims of the ‘768 Patent, including but not limited to the Model XP-S8000C.

13. Defendant’s infringement has irreparably harmed and continues to harm Plaintiff.

COUNT II
INDUCEMENT OF PATENT INFRINGEMENT

14. Plaintiff Douglas Machine incorporates by reference the previous paragraphs.

15. Defendant's manufacturing, sales, offers for sale, marketing and other actions induced infringing acts and Defendant know, knew or should have known its actions would induce actual infringements of the '768 Patent.

COUNT III
CONTRIBUTORY PATENT INFRINGEMENT

16. Plaintiff Douglas Machine incorporates by reference the previous paragraphs.

17. Defendant has sold or imported material components of the inventions claimed in the '768 Patent knowing the same to be especially made or especially adapted for use in an infringement of the '768 Patent.

18. The material components of the inventions sold or imported by the Defendant claimed in the '768 Patent are not staple articles or commodities of commerce suitable for substantial noninfringing uses.

19. Upon information and belief, Defendant knew of the '768 Patent since approximately its issue date. Defendant pursued its knowing and willful infringement of the '768 Patent in disregard of the patent rights held by Plaintiff Douglas Machine.

DEMAND FOR JURY TRIAL

20. Plaintiff demands trial by jury as to all issues triable by jury in this case as a matter of right.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Douglas Machine, Inc. prays for the following relief:

1. An injunction against Defendant's continued infringement.

2. Damages, including interest, for Defendant's past infringement, and a trebling of the damages for Defendant's willful infringement.
3. An award of attorneys fees and costs.
4. Such other relief as the court deems just, fair, and equitable.

BRIGGS AND MORGAN, P.A.

February 23, 2011

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**ATTORNEYS FOR PLAINTIFF
DOUGLAS MACHINE, INC.**